

## Remarks

The present response is to the Office Action mailed in the above referenced case on August 10, 2006, made Final. Claims 1-28 are standing for examination. The Examiner maintains the previous rejection of claims 1-2 and 12-28 under 35 U.S.C. 103(a) as being unpatentable over Weinberg (US 6,360,332) hereinafter Weinberg. Claims 3-11 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Weinberg in view of W3C's, HTML 4.0 specification, hereinafter W3C.

In response, applicant makes a minimal amendment to the independent claims to positively recite that the electronic information pages are on a data-packet-network. Applicant reiterates arguments made previously and provides new arguments not yet considered by the Examiner in the present case.

Regarding claims 1, 12 and 18 the Examiner states that; "Weinberg teaches an application for enabling automated notification of applied structural changes to electronic information pages on a network comprising:" Applicant points out that the preamble of both claims 1 and 12, in their un-amended form recite; "A software application for enabling automated notification of applied structural changes to electronic information pages hosted on a data packet network comprising:" Applicant herein amends the independent claims to positively recite that the electronic information pages are on the data-packet-network.

Applicant argues that Weinberg fails to teach or suggest that the testing procedure occurs by navigating and interacting with an electronic information page on the data-packet-network. This is a key difference between applicant's invention and that of Weinberg as evidenced by further arguments below.

Applicant previously argued that Weinberg actually tests the operations of a transactional server providing an interactive Web site, not for structural changes on the Web site, itself, as claimed. Applicant wishes to point out that structural changes are succinctly defined in applicant's as-filed disclosure beginning on page 65 at line 24, as follows: "For example, a structure change within a website may include rearrangement of

tables, hyperlinks, and so on. There may be additional hyperlinks added, existing hyperlinks removed, as well as address changes and other structural alterations. All of the structural updates are accessible from the source information of a website. The new correct information is used in the construction of a new logic block."

This structural limitation in applicant's claims is essential in understanding and judging the merit of the argument. This is true because in the applicant's situation the web sites are third party web sites, such as bank sites, from which the applicant's employer, through a subscription service, regularly extracts data for subscribers. The bank, and the persons who maintain the bank's website, may (and will) periodically change the *structure* of the site, and they have no knowledge of the applicant's employer's activities, and no obligation to inform the applicant or his employer of any change. *This is why the tests are performed, to determine when the structure of the site has changed.*

Applicant argues that in the case of Weinberg all navigation and structural obstacles are navigated directly by a live user when the initial process is recorded. Weinberg merely records the navigation of the user (entering URLs, selecting hyperlinks etc.) and records/stores the output of the server to perform the test at that time (attended) or a later time (unattended). **Applicant asserts that it is very important to note that in Weinberg, there is no actual automatic navigation through the structure of an electronic information page on a data-packet-network taking place, as claimed in applicant's invention.** The user in Weinberg performs all of the structural navigation on the Web page during the recording session, the server responses are also recorded then the test procedure begins and all is subjected to the verification step (col. 8, line 62 to col. 11 line 36). If failures occur at the transactional server, they are noted on the hierarchical tree.

Applicant points out that a failure in the Web page structure in Weinberg cannot occur because a user performs the navigation while being recorded, so any changes in the structure are dealt with on the fly by the user by working around changes or editing the test at the time of recording to accommodate any structural changes (col. 12, lines 3-10). The recording in Weinberg is tested, not a live, dynamic Web page, so the structure

would never fail because it doesn't change after recording.

The Examiner states that Weinberg teaches; “an interface for enabling users to build and modify network navigation and interaction templates using functional logic blocks (column 2, lines 25-35; columns 9-10, lines 48-23), for navigating to and interacting with interactive electronic information pages (columns 9-10, lines 48-22: “web site”; column 14, lines 39-41); a navigation interface for integrating the software application to a proxy-navigation system for periodic execution of the templates (column 2, lines 35-39; column 6, lines 15-19).

Applicant argues that column 2, lines 25-35 of Weinberg teaches the testing tool generates tests by recording interactions between a user and the transactional server as the user performs a transaction, such as a business process. For example, in a web-based implementation, the testing tool records interactions between a web browser and a web server, including link selections and form submissions made by the user and pages returned by the server. During or following the recording session, the user can define verification steps to test for expected server responses. For example, the user can define verification steps to test for expected text messages, images, or numerical values within a web page or other screen returned by the transactional server. This portion of Weinberg fails to read on any of the limitations presented above. Col. 9-11 merely shows the recording and verification steps of the test before it is initiated. In the art of Weinberg, the structure might change because the structure of Web sites in Weinberg is controlled by the same entity performing the test. Further, Weinberg's tests are performed from recorded navigation steps from a user navigating through the Web site. Applicant asserts that because a live person always performs the navigation in Weinberg there is no expectation of structural failure, therefore there is no motivation in Weinberg to insert test parameters to accommodate for structural changes. The transactional server in Weinberg works within the structure of the recorded test, and it is the output of this server that is tested in Weinberg, not the structure of the site.

Clearly, there is no expectation that the structure of the site might change, and if it were to change, it would likely be changed by the people structuring and performing the

test, or they would be informed. There is no disclosure concerning and no discussion of structural change to the sites in test in Weinberg. The nature of the Weinberg teaching is to test the functionality of a transactional server in the sense of the site performing its expected functions.

Applicant argues there is no teaching in Weinberg of what would happen if the *structure* of the site were unexpectedly changed. Because the user performs the navigation and is recorded, there is absolutely no motivation for Weinberg to implement a system to detect and correct dynamic structural changes on 3<sup>rd</sup> party Web sites. In Weinberg the user corrects any navigation problems during recording and edits the testing procedure to accommodate any changes. Additionally, all Web sites in Weinberg are internal to the system, so changes would be “in house” and known by the user.

In applicants' system the purpose is to find and record any breakdown in the *ability* to retrieve information. This is because in applicants' system the script is visiting third party sites on behalf of a client and retrieving typically financial information. The third parties, such as banks and savings institutions, have no responsibility to report structural changes in their sites to the applicants' system, therefore site changes and updates may well result in *interruption* of applicants' script, so the information for the client cannot be retrieved; so the script itself has to be updated.

Applicant previously argued Weinberg fails to teach the “change-notification module for indicating a point in process where a navigation and interaction routine has failed and for creating a data file containing parameters associated with the failed routine.” The Examiner respectfully disagrees with the Applicant’s description of a “failure” in the Weinberg reference (Remarks: Page 12). As discussed above, changed data does not necessarily mean that data was returned to be compared to the expected data. Rather, the changed data could be that the data no longer existed on a given page. In this case, Weinberg records a point-of-failure indication (Fig. 5F: 88 & 89) within the failed routine, indicating that that verification step failed and thus the status of the test.

Applicant respectfully points out the claim language recited in applicant’s limitation which must be considered by the Examiner. The limitation specifically recites;

“...for indicating a point in process where a navigation and interaction routine has failed...”

Applicant argues that Weinberg’s ability to verify if data from a captured and recorded transactional server screen has changed cannot read on the navigation and interaction routine as claimed. Further Weinberg checks for the data anywhere on the page, or inside a hyperlink, which teaches away from “changed structure” as claimed in applicant’s invention. (col. 14, lines 15-26). **Weinberg fails to address anywhere in the specification what would happen to the test procedure if somehow the actual structure of the Web page changed from the time of recording to the time of testing the recording, because a change in structure during this window is virtually impossible.**

So a basic error in the rejections is the assertion the Examiner insists on maintaining that a change in text or an image is a structural change. This is an assertion by the Examiner to try close the gap between what Weinberg actually teaches, and what the Examiner would like it to mean. A change in text or an image simply is not a structural change. In Weinberg there is a necessity and a requirement that the recorded navigational routine performs to completion. Therefore, Weinberg could never perform the functions claimed by the applicant. The Weinberg procedure would simply stop. The Examiner might, *after becoming familiar with applicant's specification and claims*, and then operating with the Weinberg teaching, conclude that a structural change had occurred. But this is an addition by the Examiner, not an application of Weinberg's teaching on the limitations of the claims. Applicants are checking for any change in the routine that causes information retrieval to fail. It is an entirely different thing. The Examiner is inserting a teaching in Weinberg that simply does not exist when stating; “changed data does not necessarily mean that data was returned to be compared to the expected data. Rather, the changed data could be that the data no longer existed on a given page.” The verification step in Weinberg *always* has an expectation of what data should be returned. If no data is returned from the transactional server, that result is compared to the expected result in the verification parameter. This is not a structural

change, as claimed, but merely a change in returned data from the server.

The applicant wishes to emphasize once again that the Examiner is treating "failed" as used in the Weinberg reference to equate to "failed" as used in the applicant's claims. In Weinberg "failure" is returning data that is not expected (but data none-the-less). In applicant's claim 1, the language "...for indicating a point in process where a navigation and interaction routine has failed..." means the routine cannot continue. It is entirely different. Weinberg does not teach applicant's claim limitations in respect to structural changes, and the claims are patentable over Weinberg.

If there are any time extensions needed beyond any extension specifically requested with this amendment, such extension of time is hereby requested. If there are any fees due beyond any fees paid with this amendment, authorization is given to deduct such fees from deposit account 50-0534.

Respectfully Submitted,  
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